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7 Attorneys for Plaintiff

8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ALASKA AT JUNEAU**

10 MYRNA I. JOHNSON,

11 Plaintiff,

12 vs.

13 FRED MEYER STORES, INC.,

14 Defendant.

Case No. J-04-008 CV (RRB)

15 **PLAINTIFF'S MOTION FOR ATTORNEY'S FEES**

16 Pursuant to FRCP 54(d), L.R. 54.3 and Alaska R. Civ. P. 82, Plaintiff moves for an  
17 award of prevailing party attorney fees at the contested with trial rate on the jury award of  
18 \$208,000.00 plus prejudgment interest as awarded by the Court.

19 I. **Relief Requested.**

20 Plaintiff requests that the Court award attorney's fees at the "contested with trial rate"  
21 on the jury award of \$208,000.00 plus prejudgment interest as awarded by the Court.

22 II. **Relevant Background.**

23 This matter was tried to a jury before the Honorable Ralph R. Beistline, from August 11  
24 to August 15, 2008 in Juneau, Alaska. The jury verdict found in favor of Plaintiff and awarded  
25 damages of \$208,000.00.

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27 *Johnson, Myrna v. Fred Meyer (J-04-008 CV RRB) [23003].*  
28 PLAINTIFF'S MOTION FOR ATTORNEY'S FEES  
J-04-008 CV (RRB)

Plaintiff has also moved for an award of prejudgment interest.<sup>1</sup> Plaintiff seeks an award of attorney's fees on the total of the jury's award of \$208,000.00 plus whatever amount the Court awards as prejudgment interest.

### III. Applicable Law.

FRCP 54(d) provides for the award of attorney's fees to a "prevailing party". L.R. 54.3 requires that the movant:

- (1) State the amount requested;
- (2) Set forth the authority for the award, whether Rule 82, Alaska Rules of Civil Procedure...
- (3) Be accompanied by an affidavit that provides [A] total number of hours worked and billing rate for each lawyer and paraprofessional, [B] the amount charged to the client, if any, and [C] has attached as exhibits bills sent or other detailed itemization as may be appropriate.

ARCP 82(b)(1) provides that where there is a money judgment, at trial, the attorney fee award is calculated at the "contested with trial rate" of 20% on the first \$25,000.00 and 10% on all amounts thereafter.

### IV. Argument.

Plaintiff requests that the Court award attorney's fees at the "contested with trial rate" on the total of the jury's award of \$208,000.00 plus prejudgment interest. If the Court grants Plaintiff's request at Docket No. 182 to award prejudgment interest in the amount of \$54,609.00, fees would be calculated as follows:

Jury Award	\$208,000.00
<u>Prejudgment Interest</u>	<u>\$ 54,609.00<sup>2</sup></u>
Total	\$262,609.00

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<sup>1</sup> Docket No. 182.

<sup>2</sup> This is the amount that was requested in Plaintiff's Motion for Award of Prejudgment Interest.

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[A] *Amount Requested.*

Plaintiff requests that the Court award attorney's fees in the amount of \$28,760.90.<sup>3</sup>

[B] *Authority for the Award.*

Plaintiff makes this request for fees pursuant to Alaska Rule of Civil Procedure 82(b)(1).

[C] *Affidavit of Counsel.*

Accompanying this motion is an Affidavit of Counsel with the total number of hours worked, the actual amount billed to the client, and any necessary attachments.<sup>4</sup>

V. Conclusion.

Plaintiff requests that the Court award attorney's fees to her as prevailing party in the amount of \$28,760.90.<sup>5</sup>

DATED Thursday, September 11, 2008, at Juneau, Alaska.

Respectfully submitted,  
CHOATE LAW FIRM LLC

  
s/Mark Choate

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<sup>3</sup> Rule 82 fees at the "contested with trial rate" on the total amount of \$262,609.00 are \$5,000.00 (20% of the first \$25,000.00) plus \$23,760.90 (10% of \$237,609.00) for a total of \$28,760.90.

<sup>4</sup> Affidavit of Counsel (Exhibit "A")

<sup>5</sup> Attorney's fees are calculated on the assumption that prejudgment interest in the amount of \$54,609.00 will be awarded in this matter.

**PROOF OF SERVICE**

STATE OF ALASKA, FIRST JUDICIAL DISTRICT AT JUNEAU

I am employed in the City and Borough of Juneau, State of Alaska. I am over the age of 18 and not a party to the within action. My business address is 424 N. Franklin Street, Juneau, AK 99801.

On September 11, 2008, I served the foregoing document described as **PLAINTIFF'S MOTION FOR ATTORNEY'S FEES**, on the interested parties in this action by serving the original true copies, addressed as follows:

James Dickens  
Miller Nash LLP  
Attorney For: Fred Meyer Stores Inc.  
4400 Two Union Square  
601 Union Street  
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Peter Gruenstein  
Gruenstein & Hickey  
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☒ By electronic service through the court of record's electronic service system,

☐ (State) I declare under penalty of perjury under the laws of the State of Alaska that the foregoing is true and correct.

☒ (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

Executed on September 11, 2008 at Juneau, Alaska.

  
CHOATE LAW FIRM, LLC